THE HON'BLE SRI JUSTICE BILAL NAZKI

C.C.No.276 of 2007
&
WRIT PETITION No.5149 of 2001

Dated: 20.04.2007

W.P.No.5149 of 2001

Between:

P.Sravana Kumar

..... PETITIONER

AND

1.The Deputy Executive Engineer, APSRTC,
Vizianagaram Sub-Division, Vizianagaram,
Vizianagaram District and 3 others.

.....RESPONDENTS

The Hon'ble Sri Justice Bilal Nazki

C.C.No.276 of 2007
and
Writ Petition No.5149 of 2001

Common Order:

C.C.No.276 of 2007:

It is submitted by the learned Standing Counsel for the respondent-Corporation that as on today, the petitioner is continuing in service and the interim order dated 21-03-2001 passed by this Court in W.P.No.5149 of 2001 has not been violated.

In this view of the matter, the Contempt Case is misplaced, and the same is, accordingly, dismissed.

W.P.No.5149 of 2001

The relief claimed in the Writ Petition reads as under:

> 'to issue a writ, order or direction more particularly in the nature of Writ of Mandamus declaring the proceedings No.A3/785(2)/97 CEO/VSP dt.2.6.98 issued by the Executive Engineer that is 3rd respondent as illegal, arbitrary, void and against to the proceedings of the

respondents as well as the judgments of the APEX Court consequently regularize their service.'

This Writ Petition is pending in this Court for the last six years and the petitioner has been able to get an interim direction from this Court on 21-03-2001. Because of the said interim direction, he is continuing in service.

The petitioner claims that he has been in service of the respondent-Corporation for a long time, therefore, he could not be terminated without following the due process of law, whereas the respondents have mentioned that the petitioner was not at all in service and is now being continued because of the interim direction passed by this Court on 21-03-2001.

Similar Writ Petition being W.P.No.23732 of 2007 has been dismissed by this Court on 12-02-2007. This Court found that the existence of an employer and employee relationship was in dispute. Therefore, the factual disputes could not be gone into by this Court in writ proceedings under Article 226 of the Constitution of India.

In any case, the relief claimed by the petitioner

in the present Writ Petition is that he should not be terminated from service without following the due process of law. I do not think that this is a case, which should remain on board for number of years. Whether the petitioner is an employee of the respondent-Corporation or not is a question, which does not fall for consideration before this Court and this Court is not deciding such a question. However, the respondents are directed not to terminate the petitioner from service without following the due process of law.

The Writ Petition is, accordingly, disposed of. No costs.

_____

(Bilal Nazki, J)

20th April, 2007
lur